

REMARKS/ARGUMENTS

Following this amendment, independent claims 1, 18, and 47 remain in the present application, with claims 2-4, 6-17, 19-22, 35-39, and 48-50 depending therefrom. Applicants believe that the current amendment does not introduce any new matter and, therefore, respectfully request entry of the present amendment. It is believed that all grounds for objection/rejection have been addressed through the amendment and the following remarks, and that the application is now in condition for allowance. Applicants kindly solicit reconsideration the present invention as currently claimed and allowance the claims.

Claim Rejection Under 35 USC §101/112

The Office action rejected claims 18-39 under 35 USC §101 as non-patentable subject matter. Applicants respectfully believe that this rejection is mute in view of the BPAI recently released holding of *in re Lundgren*. Furthermore, Applicants have amended these claims to clarify the patentable subject matter of the present invention. Likewise, application has amended claim 11 to clarify the subject matter of the present invention.

Claim Rejection Under 35 USC §102(e)

The Office Action further rejected all claims under 35 USC §102(e) as being anticipated by US Patent No. 6,094,641 issued to Ouimet. Applicants have carefully reviewed the Ouimet reference and have amended the claims to clarify the subject matter of the present invention. Specifically, the **dynamic** pricing system and method of the present invention provides price recommendations with varying degrees of available data. In particular, the claimed invention produces a viable pricing value estimate using available data, and then modifies that price estimate with increased forecasting accuracy by incorporating the new data, as it becomes available. In this way, the claimed invention system functions constantly and in **real time** to update and alter price recommendations to reflect the most recently acquired sales data. These aspects are not seen in the Ouimet reference and it is believed that Ouimet's incorporation of the

psychological effects is incompatible to real-time, dynamic pricing as found in the present invention since the described psychological effects are not instantaneous.

Moreover, the present invention's novel include a novel application of Verhulst-based statistics from previously used in biological population studies, as contained in new claims 48-49 is simply not found in Ouimet.

Conclusion

In view of the foregoing, the Applicants respectfully request that the Examiner considers the above-noted amendment when the application is examined on its merits and the timely allowance of the pending claims. The Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.


If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1349.

Respectfully submitted,

Dated: November 1, 2005

HOGAN & HARTSON LLP
555 13th Street, N.W.
Washington, D.C. 20004
Telephone: 202-637-5600
Facsimile: 202-637-5910
Customer No. 24633

By: _____


Celine Jimenez Crowson
Registration No. 40,357

David D. Nelson
Registration No. 47,818